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HUMAN RESOURCES DIVISION
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TO: Cabinet Secretaries, Division Directors, Agency Heads, Human Resources Directors, Labor Relations Directors, Chief Financial Officers, Payroll Users and Budget Directors

FROM: Paul Dietl, Chief Human Resource Officer *Paul Dietl*

DATE: September 29, 2015

RE: Public Hearing Concerning Proposed Changes to the Rules Governing Paid Leave and Other Benefits for Managers and Confidential Employees (Red Book)

A public hearing will be held on Friday, October 16, 2015 at 1:30 p.m. as a means for affected employees to give feedback on proposed changes to the Red Book. The hearing will be held in the Charles River Room on the 10th Floor of One Ashburton Place, Boston, MA 02108. **Section 28 of Chapter 7 of the General Laws requires this hearing notice be posted conspicuously in the office of each Appointing Authority thirty days before the changes are to become effective. Since the changes are proposed to be effective Monday, November 1, 2015, please ensure that this notice is posted no later than October 1, 2015.** Enclosed please find the current rule, followed by the proposed amended Red Book language, with the new or changed language highlighted. Only sections of the Red Book that are intended to be amended have been included.

Summary of Proposed Changes to the Red Book

The Red Book will be amended to reflect changes to how employees covered by the Red Book will accrue sick, vacation and personal time. There is no change to the annual rate that an employee earns sick, vacation or personal time. Rather than being credited with earned sick or vacation leave on the last day of each month, employees will be credited on a bi-weekly basis. As a result, sick and vacation leave credits will be available for use earlier than those available under the prior Red Book.

In addition, the Red Book is being amended to prorate sick and vacation rate accruals on a bi-weekly basis in the event an employee is off the payroll. Further, there are changes being made as to when Personal Leave will be available for use (the first pay period of the year, as opposed to January 1st).

These changes are consistent with those implemented for employees whose benefits are covered by collective bargaining agreements.

2.00 VACATION LEAVE

CURRENT LANGUAGE: 2.01 Accrual of Vacation Leave

Employees will accumulate vacation leave with pay on a monthly basis, on the last day of each full month worked, not to exceed the following:

Length of Creditable Service	Vacation Credit Accumulated:	
	Monthly	Annually
Less than 4.5 years	1 day	12 days
4.5 years, but less than 9.5 years	1 1/4 days	15 days
9.5 years, but less than 19.5 years	1 2/3 days	20 days
19.5 years or more	2 1/12 days	25 days

On July 1st of a transition year, the higher standard monthly accrual rate will begin. Example: If an employee reaches 4.5, 9.5 or 19.5 years of creditable service in December, the higher accrual rate will begin the preceding July.

Vacation credits shall not accumulate for service in excess of either 37.5 or 40 hours a week as determined by Rule 10.01.

NEW LANGUAGE: 2.01 Accrual of Vacation Leave

The vacation year shall be the first full pay period in January through the last full pay period inclusive of December 31st of the same calendar year.

Vacation leave with pay shall be credited to full-time employees employed by the Commonwealth at the end of each pay period as follows:

<u>Total Years of Service</u>	<u>Scheduled hours</u>	<u>Accrued Credit Bi-Weekly</u>
Less than 4.5 years	7.5	3.46455 hours
	8.0	3.69232 hours
4.5 years but less than 9.5 years	7.5	4.326975 hours
	8.0	4.61544 hours
9.5 years but less than 19.5 years	7.5	5.7693 hours
	8.0	6.15392 hours
19.5 years or more	7.5	7.21155 hours
	8.0	7.69232 hours

Employees will be credited with the next higher level of accrual status during the pay period that includes July 1 of the fiscal year that the employee reaches the higher accrual status. On July 1st of a transition year, the higher standard monthly accrual rate will begin. Example: If an employee reaches 4.5, 9.5 or 19.5 years of creditable service in December, the higher accrual rate will begin the preceding July.

Vacation credits shall not accumulate for service in excess of either 37.5 or 40 hours a week as determined by Rule 10.01.

CURRENT LANGUAGE: 2.03 Vacation Status and Creditable Service

For determining vacation status, "creditable service" will be used. An employee's creditable service begins with the first working day of the first full calendar month of work. All service thereafter becomes "creditable service" provided there has not been a break of three years or more in such service as referred to in Rule 2.12.

Creditable service for purposes of vacation status only will also mean service in any political subdivision of the Commonwealth prior to entry into a position covered by these rules, provided that no break in service of three years or more occurred between termination of employment in the political subdivision and entrance into a covered position. In order to credit such prior service toward vacation status, an employee must submit to his/her Appointing Authority a sworn statement of such service executed by the appropriate official of the political subdivision.

Creditable service, for the purpose of vacation status only, may also include experience comparable to the duties of the job for which the person is being hired. To be recognized for this purpose, such comparable experience must be in excess of that which meets the minimum entrance requirements for the position, and shall include experience in all employment sectors, including work for all private and public employers. Such experience must be full-time and will be credited on the basis of one year of experience for one year of creditable service. This policy is intended to be used as a recruitment tool at the time of hire. All such requests, and decisions concerning the application of this paragraph, are subject to the approval of the Personnel Administrator.

NEW LANGUAGE: 2.03 Vacation Status and Creditable Service

All service beginning on the first working day in a state agency and all service thereafter is considered toward "total years of service" provided there has not be any break in service of three years or more as referred to in Section 2.12.

Creditable service for purposes of vacation status only will also mean service in any political subdivision of the Commonwealth prior to entry into a position covered by these rules, provided that no break in service of three years or more occurred between termination of employment in the political subdivision and entrance into a covered position. In order to credit such prior service toward vacation status, an employee must submit to his/her Appointing Authority a sworn statement of such service executed by the appropriate official of the political subdivision.

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CURRENT LANGUAGE: 2.04 Reductions to Vacation Status

Unless otherwise provided for by law, when an employee is on Leave Without Pay or Absence Without Pay for 20 or more cumulative work days in any year, such leave or absence must be proportionately deducted from the monthly vacation leave credits for that year and any service in that year will not be "creditable service" for vacation status purposes.

When an employee reaches 20 work days of Leave Without Pay or Absence Without Pay during a year, the vacation leave balance during the month in which 20 or more work days is reached will be reduced. The number of vacation days to be deducted from the monthly vacation leave balance will be determined by the number of Leave Without Pay or Absence Without Pay days as the numerator. The number of days the employee is required to work for the year will be the denominator. This result will be multiplied by the total number of vacation days that would be earned in that year.

For every subsequent month during that year in which additional Leave Without Pay or Absence Without Pay days occur, the credited monthly vacation leave balance will be reduced based on the number of additional Leave Without Pay or Absence Without Pay days that occurred during that month. The number of vacation days to be deducted during that month will be determined by using only the Leave Without Pay or Absence Without Pay days occurring in that month, not to include previous Leave Without Pay or Absence Without Pay days of prior months, as the numerator in the above formula.

Unpaid leave will not result in any loss of "creditable service" for the purpose of determining vacation status under this section when such leave is for the following purposes:

- Serious illness or injury requiring hospitalization for all or a portion of the period of absence
- When through exposure to contagious disease, the presence of the employee at his/her work location would jeopardize the health of others
- Industrial accident
- FMLA/Non-FMLA family leave
- Military leave
- Educational leave
- Civic duty leave
- Leaves of absence in lieu of layoffs

- Domestic violence leave

In these cases "continuous service" for purposes of vacation credit and vacation status shall not be affected.

NEW LANGUAGE: 2.04 Reductions to Vacation Credits

A full-time employee on leave without pay and/or absent without pay during the pay period shall earn vacation leave credits based on the hours paid within the bi-weekly pay period.

CURRENT LANGUAGE: 2.05 Conversion of Vacation Credits During Industrial Accident Leave

If an employee on Industrial Accident Leave has available vacation credits which have not been used and if he/she, because of the two year rule against carryover of vacation, would lose such vacation credits, the Appointing Authority shall convert such vacation credits to sick leave credits on December 31st of the year in which such vacation credits would be lost if not taken. Such additional sick leave shall be added to any sick leave the employee may have accumulated.

NEW LANGUAGE: 2.05 Conversion of Vacation Credits During Industrial Accident Leave

If an employee on Industrial Accident Leave has available vacation credits which have not been used and if he/she, because of the two year rule against carryover of vacation, would lose such vacation credits, the Appointing Authority shall convert such vacation credits to sick leave credits in the new calendar year beginning with the first full pay period in January of the year in which such vacation credits would be lost if not taken. Such additional sick leave shall be added to any sick leave the employee may have accumulated.

CURRENT LANGUAGE: 2.06 Crediting of Accumulated Vacation

Vacation leave earned during any year will be credited on the last day of each full month worked and will be available for use on the first working day of the following month. However, in the case of any employee whose services terminated on the last day of any month, he/she will be credited with vacation leave earned during that month in accordance with these rules and will be paid for such leave.

NEW LANGUAGE: 2.06 Annual Crediting of Accumulated Vacation

On a bi-weekly basis, vacation leave shall be credited the first full pay period in January of every year through the last full pay period inclusive of December 31st of the same calendar year.

CURRENT LANGUAGE: 2.08 Carryover of Vacation Accrual

The Appointing Authority will grant vacation leave in the year in which it becomes available, unless in his/her opinion it is impossible or impractical to do so because of work schedules or

other emergencies. Unused vacation leave earned during the previous two years can be carried over on January 1 for use during the following year. Annual accumulated vacation leave credit not used by December 31st of the second year after it was earned will be forfeited. The Appointing Authority is charged with the responsibility of ensuring that vacation is taken in the succeeding years so that the employee may not lose vacation credits; except as provided in rule 2.05. In extraordinary circumstances, an agency head may request the Personnel Administrator to permit an employee to carry over more than two years of vacation credits. The approval of such a request shall be at the discretion of the Personnel Administrator.

NEW LANGUAGE: 2.08 Carryover of Vacation Accrual

The Appointing Authority will grant vacation leave in the year in which it becomes available, unless in his/her opinion it is impossible or impractical to do so because of work schedules or other emergencies. Unused vacation leave earned during the previous two years can be carried over to the new calendar year beginning with the first full pay period in January. Annual earned vacation leave credit not used by the last full pay period inclusive of December 31st of the second year it was earned will be forfeited. The Appointing Authority is charged with the responsibility of ensuring that vacation is taken in the succeeding years so that the employee may not lose vacation credits; except as provided in rule 2.05. In extraordinary circumstances, an agency head may request the Personnel Administrator to permit an employee to carry over more than two years of vacation credits. The approval of such a request shall be at the discretion of the Personnel Administrator.

3.00 PERSONAL LEAVE

CURRENT LANGUAGE: 3.01 Accrual of Personal Leave

On each January 1, full-time employees on the payroll as of that date will be credited with three days of personal leave credits. Full-time employees, beginning state service or after the first day of the calendar year, shall be credited with paid personal leave as follows:

Date of Employment	Personal Leave Granted
January 1 through March 31	3 days
April 1 through June 30	2 days
July 1 through September 30	1 day
October 1 through December 31	0 day

NEW LANGUAGE: 3.01 Accrual of Personal Leave

During the first full pay period in January employees will be credited annually with three days of personal leave credits which may be taken by the last Saturday prior to the first full pay period in January. Full-time employees, beginning state service or after the first day of the calendar year, shall be credited with paid personal leave as follows:

Date of Employment	Personal Leave Granted
January 1 through March 31	3 days
April 1 through June 30	2 days
July 1 through September 30	1 day
October 1 through December 31	0 day

CURRENT LANGUAGE: 3.02 Use of Personal Leave

Personal leave may be taken during the calendar year when requested by such employee and upon approval by his/her Appointing Authority. Except as provided herein, any personal leave not taken by December 31st of the calendar year in which it was credited will be forfeited. An employee who cannot utilize his/her personal leave in the months of November and December, due to the operational needs of the agency, shall be permitted to carry over one day of personal leave not utilized to the next calendar year.

NEW LANGUAGE: 3.02 Use of Personal Leave

Personal leave may be taken during the calendar year when requested by such employee and upon approval by his/her Appointing Authority. Any personal time not taken by the last Saturday prior to the first full pay period in January will be forfeited by the employee. An employee who cannot utilize his/her personal leave in the months of November and December, due to the operational needs of the agency, shall be permitted to carry over one day of personal leave not utilized to the next calendar year.

4.00 SICK LEAVE

CURRENT LANGUAGE: 4.01 Accrual of Sick Leave

Full-time employees shall accumulate sick leave with pay credits not to exceed 15 working days for each year of service (1.25 days/month). Sick leave credit will begin at once for employees starting work on the first working day of a calendar month. In all other cases, credit will begin the first working day of the month following employment, and will accumulate each calendar month thereafter. Sick leave not used in any year may be accumulated without limit.

NEW LANGUAGE: 4.01 Accrual of Sick Leave

A full time employee shall accumulate sick leave with pay credits at the following rate for each bi-weekly pay period of employment:

<u>Scheduled Hours</u>	<u>Sick Leave Accrued</u>
75 hours bi-weekly	4.326975 hours
80 hours bi-weekly	4.61544 hours

Any employee on any leave with pay or industrial accident leave shall accumulate sick leave credits. There shall be no limit to the number of unused sick leave credits which an employee may accumulate.

CURRENT LANGUAGE: 4.02 Reductions/Limits to Sick Leave Credits

Full-time employees shall not accumulate sick leave credits for any month in which they were on leave without pay or absence without pay for more than one day, except in cases when employees are unpaid leaves of absence in lieu of layoffs, when they shall continue to accumulate sick leave credits while on such leave.

Sick leave shall not accumulate for service in excess of either 37.5 or 40 hours a week as determined by Rule 10.01.

NEW LANGUAGE: 4.02 Reductions/Limits to Sick Leave Credits

A full-time employee shall not accrue full sick leave credits for any bi-weekly pay period in which he/she was on leave without pay or absent without pay. Instead the employee shall earn sick leave credits based on the hours paid within the bi-weekly pay period.